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THE 1962 HIGHWAY ACT: ITS LONG TERM SIGNIFICANCE

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The 1962 Highway Act¹ is best known for its requirement that after July 1, 1965 all Federally-aided highway projects in metropolitan areas would have to be based on a cooperative, comprehensive and continuing planning process. Earlier Federal legislation had mandated planning. The Corps of Engineers, for example, had, for many years, initiated action on its projects with a sequence of planning activities. More recently, the 1954 Housing Act had mandated local planning as a precondition to Federal funding of urban renewal projects. Dozens of Federal programs had planning mandates. Why, then, was the 1962 Highway Act considered exceptional? What has its impact been? What can we consider its major contributions to be, now at the end of the decade of the 60's?

The 1962 Highway Act has been criticized because it emphasized planning for highways, because it was administered in such a manner as not to slow down highway construction projects and because the decision-making in reference to highway projects still did not include as many diverse interests as some observers felt it should.² But, while the Act undoubtedly has not met the expectations of many of its critics, it has been emulated in a steady stream of legislation in

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1. PUB. L. No. 87-866, § 9 (Oct. 23, 1962).

2. For a discussion of criticism of the 1962 Highway Act, see MOREHOUSE, *The 1962 Highway Act: A Study in Artful Interpretation*, 35 J. AM. INST. OF PLANNERS 160-68 (May, 1969). See also Comments by CARROLL AND EINSWEILER, *id.*, at 290-91 (July, 1969).

the years since it was enacted. Furthermore, in both its concept and its new inputs to decision-making it now looks better than most legislation of its type.

The 1962 Highway Act culminated a decade or more of discussion of, and experimentation with, highway planning techniques. Origin-destination studies undertaken in the decade of the 40's led to the use of simulation models to project traffic patterns in the studies undertaken in the decade of the 50's. The basic technology involved in use of computers for transportation planning had been both conceptualized and applied by 1962. But there was a growing realization that technicians alone could not make all the decisions concerning the location and design of highways. Others had to be brought into the decision-making process. The 1962 Highway Act prescribed the means for involving both technicians and non-technicians in decision-making relevant to major new highway projects.

In 1954, Congress approved the massive new Interstate highway program and within a few years work on those highways was well under way. The mileage and the routes had been allocated among the states. State funding had been arranged. The program was rapidly moving into its implementation stage. By the early 1960's hard decisions had to be made on the design details of specific construction projects.

Those sections of the Interstate system which crossed open country presented relatively few problems. Local governments generally favored the new roads due to the economic development potential they would provide. Rights of way could be acquired, the geometrics of design could be decided on and construction could proceed on such projects with a minimum of difficulty.

In urban areas the story was quite different. In these areas it was clear that standard cross-sections and interchange designs would not work. The design of new highways had to be tailored to local needs. In addition, there was the problem of decision-making. Unless decision-making in reference to these projects was by some means structured, a great variety of interests felt that they had the option of vetoing action on projects.

As noted above, planners had developed a body of knowledge concerning a systems approach to planning for transportation facilities. The techniques for simulating traffic flows on proposed systems of highways had been developed. It was possible, in any given urban area, to project patterns of travel on alternative networks of trans-

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portation facilities, to estimate the number of lanes required on various segments of the system and identify such needs as turning movements and optimum points of access. While it was not known how precise a tool the new technique provided it was very clear that the process was a necessary part of any effort to be made at resolving the many issues confronting highway engineers concerning the location and design of freeways in urban areas.

A principal characteristic of the systems approach to planning of transportation facilities was its dependence on the metropolitan area as a planning jurisdiction. The economic and social functions of metropolitan areas force people to travel from any single location to all other parts of urban regions. The metropolitan jurisdiction was therefore a necessary part of any systems approach to planning for urban highways.

A number of metropolitan areas had undertaken governmental reorganization studies during the decade of the 50's and the public response to these studies made it abundantly clear that general-purpose metropolitan governments were not going to be quickly or easily established in most urban regions of this country. These studies did result, however, in establishing a climate of public opinion that resulted in the emergence of many regional planning commissions to serve the area-wide planning needs of many metropolitan areas. Some of these regional commissions were acknowledged to be capable of managing the type of transportation studies required by the 1962 Highway Act.

Federal policy-makers therefore were able to draw on a substantial body of both theory and practice as they drafted the planning requirements of the 1962 Highway Act. On the basis of that experience, continuous, cooperative and comprehensive planning was deemed not only a necessity, but also a practical and achievable goal.

IMPLEMENTING THE PROVISIONS OF THE ACT

After Congress approved the new Act in 1962, administrators within the Bureau of Public Roads were charged with the responsibility of detailing the procedures to be used in implementing it. It was apparent that precise definitions were needed of the meaning of the Act's language. The processes to be established and time schedules for action had to be identified. Permissible interim levels of accomplishment had to be defined. Policies and procedures memoranda were promulgated by the Bureau of Public Roads in response to these

needs. Through these memoranda the Federal agency kept state highway administrators advised of the actions that would be required of them to insure compliance with provisions of the Act.

The 1962 Highway Act and Bureau of Public Roads planning requirements developed pursuant to it had several significant features. In the first place, they were administered through the states even though their primary impact was metropolitan, and this meant that many state highway departments had to re-structure their decision-making apparatus to accommodate the metropolitan entity. In many instances, pre-existing regional groups, usually metropolitan planning agencies, were chosen as the contracting agencies to manage the regional transportation planning function for the states. In some cases, the requirement was met by creating, usually by state law, a transportation study agency. Even though such groups were largely funded with state and Federal monies, their governing boards included representatives of county and local jurisdictions—primarily to meet the “cooperative” planning mandates of the Act—so another product of the program was its institutionalizing of regional decision-making by groups which included substantial non-highway interests.

Another feature of the Act and the Bureau of Public Roads transportation planning program was its presumption that a technical planning input was needed concerning highway location and design issues. It presumed that the latest systems-planning techniques would be used to help resolve such issues, and provisions were made to institutionalize this technical input to the decision-making process.

Joint funding arrangements with the Federal Department of Housing and Urban Development both facilitated efforts to bring many new regional forums into existence, and encouraged the use of new planning techniques.

An aspect of the highway planning program which attracted little attention but was vital to its success was its involvement of universities in efforts to train the new professionals needed to implement the program. Special curricula were offered by a variety of educational institutions which provided special training opportunities for the professionals who would be needed to undertake the preparation of transportation plans at various levels in the governmental structure. In addition, individual professionals, research institutes, and consultants were awarded research grants. The result of these education research and training efforts was the creation of a new transportation planning specialty in the fields of planning and engineering.

The short-range impact of the concepts embodied in the 1962 Highway Act were therefore significant in their impact on both the technology of and the organizational framework for transportation planning activities.

LONG-RANGE SIGNIFICANCE OF THE ACT

The 1962 Act has evidently largely accomplished its highway planning objectives. More importantly, it has set in motion a series of activities that may have far-reaching beneficial results. And it has, during the 60's, been emulated in a variety of acts establishing other Federal aid programs.

An observer of the highway planning efforts developed pursuant to the 1962 Highway Act notes that the Act generated several basic forces likely to influence the future course of highway programs. Because of the Act, highway officials now accept the principles of local participation and coordinated land use, highway and transit planning. He notes that the Act has made possible local government involvement in transportation planning through area-wide groups and that it has established a closer relationship between transportation and land use planning, control and development.³ The director of a regional planning agency, also responsible for a metropolitan transportation study, underlines these observations with a statement:

"The over-emphasis in planning as a process, evident in the administration to date of the planning requirements of the 1962 Federal Highway Act, should be replaced by an insistence on the part of the Federal government that comprehensive plans be produced by this process and adopted within a reasonable time for each urban region and that transportation plans be prepared only as integral parts of such comprehensive plans."⁴

The 1962 Highway Act's impact on transportation planning is almost certain to be enduring.

Perhaps of equal significance is the fact that salient features of the Act have been written into a variety of newer legislation affecting other governmental programs and functions. The various aspects of the planning undertaken pursuant to the 1962 Highway Act—state involvement, the use of a regional forum to include officials from

3. MOREHOUSE, *supra* note 2, at 167.

4. BAUER, *The Comprehensive Plan: Its Preparation and Directive Use in Transportation Planning*, ASCE National Meeting on Transportation Engineering, Washington, D.C. July, 1969, at 8.

various levels of government in the decision making, utilization of university resources and the private sector, and dependence on a scientific input to decision making—came to be guideposts for those who later wrote legislation for programs in a variety of other fields. It is worth noting some of these later programs which followed the pattern established in the 1962 Highway Act and the BPR rules which implemented the policies promulgated in that Act:

(1) The 1964 Urban Mass Transportation Act⁵ required, as a precondition to Federal transit facility grants, that a coordinated area-wide mass transportation plan and program exist. It allocated substantial resources to research and demonstration projects, utilizing both university and private groups. It also included a program of assistance in the training of managers for transit operations.

(2) The 1965 Water Resources Planning Act⁶ established a water resources planning program with administration of most water resources planning through state agencies, but allowing for the organization of regional or basin jurisdictions to decentralize decision making. Financial assistance to universities and research organizations was provided to promote the training of water resource management specialists and to advance the "state of the art" through research grants.

(3) The 1967 Air Quality Act,⁷ like other legislation noted above, specified that state and metropolitan areas be involved in planning and administration of air quality management programs. While it was unique in that it authorized direct Federal action in the absence of effective results from inter-governmental efforts, its emphasis on planning and research, on training of professionals and on use of the system approach to management of resources were characteristic of the earlier legislation which dealt with highway, mass transit, and water resource programs.

(4) The Comprehensive Health Planning and Public Health Services Amendments of 1966⁸ is another example of Federal action following the pattern of the 1962 Highway Act. Under its terms, states are deeply involved in health planning activities and area-wide or metropolitan health planning programs are required. Grants are provided in this Act for training of professionals and for research and demonstration projects. Public Law 90-174 amended the Act to specify that local governments must be involved in decisions relating to health service programs.

5. PUB. L. No. 88-368, § 9 (July 9, 1964).

6. PUB. L. No. 89-80, (July 22, 1965).

7. PUB. L. No. 90-148, § 103 (Nov. 21, 1967).

8. PUB. L. No. 89-749, § 3 (Nov. 3, 1966).

(5) The Omnibus Crime Control and Safe Streets Act of 1968⁹ also included many of the features of the 1962 Highway Act. Under this Act criminal justice planning by representative groups at the sub-state level is made a precondition to eligibility of localities to receive law enforcement assistance.

(6) Similar programs to those outlined above have been promulgated for management of water pollution control programs in the Department of the Interior¹⁰ and for the management of solid waste program in the Department of Health, Education and Welfare.¹¹

While the 1962 Highway Act set an example which was followed in drafting legislation for a variety of other Federal programs, the repetition of a successful formula was probably due not only to its implicit logic, but also to such other factors as (a) the concept of both horizontal and vertical intergovernmental cooperation, termed "creative federalism," which was advanced in the mid-60's; and (b) the commitment of the Federal bureaucracies to the Planning Programming Budgeting System (PPBS) which practically depends on effective planning at each of the various levels of government.

Federal planning mandates in the Federal acts listed above have produced a plethora of jurisdictions and organizations in metropolitan areas for "comprehensive" planning for various governmental functions. Their *ad hoc* jurisdiction and overlapping missions have aggravated the need for coordination at the regional level. Each governmental function appears to need, or prefer, its own planning unit—not tied to other functions or subordinate to a multi-function agency. Highway officials have demonstrated a greater willingness to participate in multi-function planning than have managers of most other governmental functions. They have already merged their transportation planning with planning for other functions in 69 of the Nation's 233 metropolitan areas.¹²

Congress has recognized the need to achieve more effective coordination of all Federal programs at the metropolitan level in enacting Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966.¹³ Section 204 provides that duly constituted

9. PUB. L. No. 90-351, § 203 (June 19, 1968).

10. *Water Quality Act*, PUB. L. No. 89-234, § 6 (Oct. 2, 1965).

11. *Solid Waste Disposal Act*, PUB. L. No. 89-272, § 204 (Oct. 20, 1965).

12. U.S. BUREAU OF PUBLIC ROADS, FEDERAL HIGHWAY ADMINISTRATION, DEP'T OF TRANSPORTATION, DIRECTORY, URBANIZED AREA TRANSPORTATION PLANNING PROGRAMS. (May, 1968).

13. PUB. L. No. 89-754, § 103 (Nov. 3, 1966).

and Federally recognized regional agencies furnish advisory reviews as to whether the facilities, for which grants are requested of Federal agencies, are consistent with comprehensive regional plans. The Section 204 approach was, in effect, an extension of project review procedures promulgated by the Bureau of Public Roads for review of highway projects in implementing the provisions of the 1962 Highway Act.

CONCLUSIONS

The 1962 Highway Act, and the policies and procedures promulgated by the Bureau of Public Roads to implement its requirements, have been criticized for being too highway oriented, short sighted, and narrow in their goals and their achievements. While such criticism might be justified as applied to highway planning practices in some jurisdictions the highway administrator's record as a whole is exceptional. The mandates of the 1962 Act were broad, yet based on sufficient practical experience to insure that they were attainable. Those charged with interpreting and administering the provisions of the Act were sufficiently firm yet sufficiently flexible to insure its successful implementation. The Act's provisions were not used to obstruct highway building, and Congress did not intend that they be used for that purpose. Instead, the Act advanced and facilitated highway construction. Both the technical process and the involvement of non-highway interests in the decision making on highway projects has strengthened the position of highway administrators in the larger society.

If imitation is indeed the sincerest form of flattery, highway administrators may justly feel flattered by the legislation that has, since 1962, used the formula incorporated in the Highway Act of 1962. However, administrators of these newer programs, serving other governmental functions, seem less willing than highway officials to tie their programs to multi-function regional agencies. Consequently, new needs are being felt for coordination of Federally-initiated programs at the state and metropolitan levels of government.